

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to a summary order filed on or after January 1, 2007, is permitted and is governed by Federal Rule of Appellate Procedure 32.1 and this Court's Local Rule 32.1.1. When citing a summary order in a document filed with this Court, a party must cite either the Federal Appendix or an electronic database (with the notation "summary order"). A party citing a summary order must serve a copy of it on any party not represented by counsel.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 31st day of January, two thousand eighteen.

PRESENT: GUIDO CALABRESI,
JOSÉ A. CABRANES,
RAYMOND J. LOHIER, JR.,
Circuit Judges.

IVONNE MARIBEL BAJANA CAICEDO, AKA JESSICA GIRALDO,

Petitioner,

16-3977

v.

JEFFERSON B. SESSIONS III, UNITED STATES ATTORNEY GENERAL,

Respondent.

FOR PETITIONER:

Shauky Michael Musa-Obregon, White
Plains, New York

FOR RESPONDENT:

Chad A. Readler, Acting Assistant
Attorney General; Cindy S. Ferrier,
Assistant Director; Timothy G. Hayes,
Trial Attorney, Office of Immigration
Litigation, United States Department of
Justice, Washington, DC.

Petition for review of an order of the Board of Immigration Appeals.

UPON DUE CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the petition for review is **DENIED**.

Petitioner Ivonne Maribel Bajana Caicedo (“Caicedo”) seeks review of an October 31, 2016 decision of the Board of Immigration Appeals (“BIA”) denying her motion to remand based on alleged ineffective assistance of counsel and affirming an immigration judge’s decision pretermittting her application for cancellation of removal. *In re Ivonne Maribel Bajana Caicedo*, No. A 047 389 247 (B.I.A. Oct. 31, 2016), *aff’g* No. A 047 389 247 (Immig. Ct. N.Y. City Oct. 15, 2015). Caicedo argues that the BIA erred when it ruled that she failed to follow the procedural requirements of *Matter of Lozada*, related to claims of ineffective assistance of counsel. 19 I&N Dec. 637 (BIA 1988). We assume the parties’ familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

We review the BIA’s factual findings for substantial evidence and its legal conclusions *de novo*. *Chen v. Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). *Lozada* mandates that a claim for ineffective assistance of counsel must be supported by 1) an affidavit detailing the agreement between the applicant and former counsel; 2) evidence that notice was given to former counsel of the allegations, with adequate time for response; and 3) if a violation of ethical or legal responsibilities is claimed, a statement as to whether the applicant has filed a complaint regarding counsel’s conduct with the appropriate disciplinary authorities or, if not, a statement why the applicant has not done so. *Garcia-Martinez v. Dep’t of Homeland Sec.*, 448 F.3d 511, 512 n.1 (2d Cir. 2006).

The BIA ruled that Caicedo failed to comply with the procedures set forth in *Lozada*, finding, among other things, that she did not “set forth in detail the agreement with former counsel concerning what action would be taken and what counsel did or did not represent in this regard,” and failed to submit sufficient evidence that she notified her prior counsel. Upon review of the record, we agree that Caicedo failed to provide sufficient information regarding the agreement with former counsel regarding what action would be taken. Since we conclude that Caicedo failed to comply with the first *Lozada* requirement, we need not reach the other elements of her claim.

CONCLUSION

For the foregoing reasons, the petition for review is **DENIED**.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk